

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4672 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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BHAICHAND NARAYAN SANSI

Versus

STATE OF GUJARAT

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Appearance:

Mr. Yatin Soni for MR DF AMIN for Petitioner

Mr. Nigam Shukla, A.G.P. for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 22/10/96

ORAL JUDGEMENT

This Special Civil Application is directed against detention order dated 20th April, 1996 passed by the District Magistrate, Panchmahals at Godhra detaining the petitioner under the provisions of Gujarat Prevention of Anti-social Activities Act, 1985. The detention order was executed on the same day and since then the petitioner is in detention lodged at Special

Jail, Bhuj.

2. The Special Civil Application was filed on 4th July, 1996 and on 5th July, 1996 Rule returnable for 12th August 1996 was issued. So far no reply has been filed on behalf of the respondents nor any affidavit in reply has been filed by the detaining authority.

3. The grounds enclosed with the detention order show that seven criminal cases were registered against the petitioner under Prohibition Act during the period 1994 to 1996. The detaining authority has placed reliance on the statements of the witnesses against petitioner's anti-social activities who had requested that their names may be kept secret because they were afraid and frightened of the petitioner. The detaining authority has found that the petitioner was a bootlegger and was engaged in anti-social activities and was engaged in the business of manufacturing country liquor and the business of import of foreign liquor. It has also been noticed by the detaining authority that in order to restrain the petitioner from continuing his anti-social activities, it was necessary to detain the petitioner and accordingly, the detention order was passed. Although the detention order has been challenged on several grounds, at the time of arguments, learned counsel for the petitioner kept his arguments confined to the question that it was not a case of breach of public order and even if the allegations and the material as has been used against the petitioner by the detaining authority is taken into consideration, it may amount to a case of breach of law and order and therefore, the detention order cannot be sustained.

4. For the detailed reasons stated in the decision dated 4th October, 1996 rendered by this Court, in Special Civil Application No. 3879 of 1996, it is clear that the material as has been used in the present case even if taken to be true, may at the most make out a case of breach of law and order and there is no question of breach of public order. In view of the reasons contained in the aforesaid decision, the present impugned detention order cannot be sustained in the eye of law.

5. Accordingly, the Special Civil Application is allowed. The impugned order dated 20th April, 1996 passed by the District Magistrate, Panchmahals at Godhra is quashed and set aside. The petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith if not required in any other

case. Rule is accordingly made absolute.